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Ringo Vs. Binns

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Court : US Supreme Court

Decided On : 1836

Appeal No. : 35 U.S. 269

Appellant : Ringo

Respondent : Binns

Judgement :

Ringo v. Binns - 35 U.S. 269 (1836)
U.S. Supreme Court Ringo v. Binns, 35 U.S. 10 Pet. 269 269 (1836)

Ringo v. Binns

35 U.S. (10 Pet.) 269

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF KENTUCKY

SYLLABUS

An agent who had been employed to perfect the title to a tract of land for his principal, in the course of his agency became acquainted with its deficiency, and having concealed this from the principal, obtained a legal title to the same land for

himself. An application was made to the Legislature of Kentucky by the holders of the imperfect title to supply its defects, which was done by a law specially enacted for that purpose. Of this proceeding the agent was informed, and when it was stated to him that his conduct, to the injury of his principal, might be attended with unpleasant consequences to himself, he declared in writing, under his hand, in the presence of two witnesses, that he disavowed an intention to interfere with the title of his principal, and assigned the title he had acquired to him, that the same might be carried into grant. At the same time be was paid $100 for his expenses, &c.; In violation of this transfer, he took out a patent for the same land in his name, and a bill was filed in the Circuit Court of Kentucky to compel him to convey the legal title thus acquired to those who held the equitable title, under the act of the legislature of that state.

By the Court:

"The complainants' entry and survey were raised by the legislature into a right to the exclusion of every right, and any patent afterwards issued is"

a nullity. The legal title of the complainants does not rest upon the statute for granting lands, but upon an act of the legislature directing an unregistered survey, inoperative by the lapse of time, to be registered; and a patent to be issued upon it. When this act was passed in favor of the complainants, the land covered by the survey became excepted from the mass of ungranted vacant land, and the complainants acquired rights in it which could not be defeated by a patent to any other person.

If an agent discovers a defect in the title of his principal to land, he cannot misuse it to acquire a title for himself, and if he does, he will be held as a trustee holding for his principal.

The tenants in possession of land of which the complainants claimed a conveyance of the legal title were made parties to the proceeding by an amended bill, the original bill having charged that the land had been occupied by them for ten or twelve years as the tenants of the holders of the legal title. They were not

charged with fraud, nor were they placed in any such relation to the land. No case exists as to the tenants for the interference of a court of equity, whether they occupied the lands as the tenants of the holder of the legal title, as declared in the original bill, or as tenants in possession under another; the complainants are to be supposed to have their remedy at law for the recovery of the land until they shall charge and show that the tenants obtained and retain possession in contravention of some equity subsisting between them and the complainants

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The facts, as stated in the opinion of the Court, were the following:

The object of this appeal is to reverse the decree of the circuit court by which the appellants were ordered to convey to the appellees, by deeds of release, with covenants of warranty against themselves and their heirs, and those claiming under them, all the right, title, interest and claim which they respectively have to lands embraced by a patent of two thousand acres to Charles Binns, Jr., and the heirs of Timothy Hixon, and their heirs, dated 16 October, 1824.

It appears by the proofs in the cause that a survey of two thousand acres was made on Indian Creek, alias Fox's Run or Mason Run, Henry County, Kentucky, on 20 November, 1797, for John Alexander Binns and Charles Binns by virtue of an entry made 5 August, 1783. The original survey, by accident or from the negligence of an agent of the Binns', to whom it had been sent for such purpose, had never been registered and was lost, but a copy of it was preserved which determined with exactness the locality of the land. It was known as Binns' land in the neighborhood and by those owning the contiguous lands. John Alexander Binns transferred his interest in the survey to Husly Bagges, by whom it was sold to Timothy Hixon, the ancestor of Hixon the appellee. Charles Binns, in August, 1819, appointed John Littlejohn his agent and attorney, with a power of substitution, to attend to this land and his other land in Kentucky, and Littlejohn associated with himself in such agency Burtis Ringo. Ringo, during the agency and particularly whilst acting in concert with Littlejohn and William P. Rogers, to

procure a division of the land between the appellees, called upon Rogers to ascertain when a division of the land could be decreed. Rogers told him there was a difficulty in the way, as the survey had not been returned to the register's office, and that no patent had ever been issued for the land. He received the information in May or June, 1822. On 10 July following, he wrote to Littlejohn, and after acknowledging that he had been requested to assist in dividing "Binns' land," he states that he had been at Frankfort; had made search for Binns' patent, but found the return of the survey had not been made, and that no grant had been issued.

He further says he supposed it would be unnecessary to be at any further trouble about it until Mr. Binns had been heard from, as he had written to him if he had a patent, to send it on as soon a possible

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to Littlejohn or himself, and he requested Littlejohn to send it to him if Littlejohn should receive it. On the same day he wrote a letter of Binns in which he said, having been requested by Littlejohn to assist him in *dividing your lands between you and Mr. Hixon's heirs,* he had been in the register's office, and finding that the release of the survey had not been made and that a grant had not been issued, he advised Binns to be at no further expense about it, as it appeared no grant could have issued, and that Binns would be wrong if he thought there was no better right on the land. On 8 July, two days before he had written to Littlejohn and Binns, Ringo had taken from the register's office warrants for five hundred acres and one hundred acres of land and caused entries and surveys to be made upon six hundred acres of the original two thousand acre survey, which had been made for John Alexander Binns and Charles Binns. The surveys were made on 20 July and returned to the register's office in his own name on 24 August. When charged by Littlejohn with the fraudulent attempt upon the rights of those principals and told that application had been made to the Legislature of Kentucky to authorize a patent to be issued upon the original survey on behalf of the Binns's, and that his conduct was known to a committee of the legislature, and might be attended with unpleasant consequences to himself, Ringo, to avoid them and to prevent a most notorious disclosure of his fraud, expressed in writing his willingness that such an

act should be passed by the legislature as the complainant had applied for, and gave to Littlejohn, under his hand and seal, a paper, of which the following is a copy:

"Whereas, it has been represented that I, Burtis Ringo, of Fleming County, State of Kentucky, had made two entries and surveys of six hundred acres of land said to belong to John Alexander Binns and Charles, of Virginia, and that the said John A. Binns had sold to Timothy Hixon, now deceased, and that I had extended the surveys for my own benefit, though an agent under John Littlejohn for said Binns, I hereby disavow such intention, and do by these presents assign over all my right, title and interest in the said extends and surveys to Charles Binns and the said heirs of Timothy Hixon, to be carried into a grant at their proper expense, hereby renouncing all claim by virtue of said extends and surveys, and assigning them to the said Binns and Hixon's heirs. As witness my hand and seal this 4 November, 1822."

"BURTIS RINGO [L.S.]"

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"Signed and acknowledged in the presence of us, Daniel Fechlen, John Littlejohn."

Before this instrument was executed by Ringo, Littlejohn agreed to give him one hundred dollars to reimburse the amount he had expended in procuring the warrants and making the surveys of the six hundred acres, paid him fifty dollars in Commonwealth paper, and gave him a note of hand for fifty dollars.

The Legislature of Kentucky acted upon the petition of the complainants, passed an act on 10 December, 1822, recognizing the survey of 20 November, 1797, made on the entries of 5 August, 1783, and the same was carried into a grant in favor of Charles Binns, Jr., and the heirs of Timothy Hixon and their heirs on 16 October, 1824. In the meantime, Ringo, in violation of his transfer of the entries and survey for six hundred acres to Binns and the heirs of Hixon, took out a patent in his own name. The aforegoing facts were charged in the bill of the

complainants, were denied by Ringo in his answers, but were established by proof at the hearing. In the original bill, Ringo was the only defendant, but the complainants charge in it that the land had been occupied for ten or twelve years by tenants of Binns. By an amended bill, the tenants, James Elliott, John Collins, John Elliott, James Lawrence, Thomas Watson, Athey Rowe, George Muse, Sr., and George Muse, Jr., were made parties, and stated to be tenants in possession of the land claimed by the defendant, and the complainants make the same prayer against the tenants, as they had against Ringo in the original bill.

The circuit court made the following decree:

"The court being now sufficiently advised of and concerning the premises, doth order and decree that the defendants, Burtis Ringo, James Elliott, John Collins, John Elliott, James Lawrence, Thomas Watson, Athey Rowe, George Muse, Sr., and George Muse, Jr., do, on or before the sixth day of the next term, convey to the complainants, by deeds of release, with covenants of warranty against themselves and their heirs, and those claiming under them, all the right, title, interest, and claim which they respectively have to the lands embraced by the two thousand acre patent to Charles Binns Jr., dated 16 October, 1824, and the writ of *habere facias possessionem* is awarded the complainants against the said defendants. And it is further ordered and decreed that the defendants pay to the complainants their costs herein expended."

The defendants appealed to this Court.

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MR. JUSTICE WAYNE delivered the opinion of the Court.

After stating the case, he proceeded:

It is contended that the decree is erroneous and should be reversed. In behalf of Ringo it is urged that he has a prior legal title, unaccompanied by any equity of the complainants. The legal title must rest upon entry, survey, registry, and patent, and it will be admitted that a legal title cannot be in anyone until a patent has been

issued, and further that all of those requirements to make a complete title shall have been done without fraud, to give to a patentee a valid title. If, then, in the course of carrying his surveys into grant, and before a patent upon them was issued to him, Ringo, under a notice to caveat the application of the complainants to the General Assembly of Kentucky, for leave to bring in a bill to authorize a copy of these original surveys for two thousand acres to be received and registered, that a patent might be issued to them; acknowledged their equity to be superior to his immature legal rights and expressed his willingness that it should be affirmed by legislative enactment, it being done by the legislature, its act nullified his surveys, and the latter could not be afterwards any foundation for a patent of the same land to himself. The complainants' entry and survey were raised by the legislature into a right to the exclusion of every right of Ringo, and any patent afterwards issued to him upon his entries and surveys is a nullity. The legal title of the complainants does not rest upon the statute for granting lands, but upon an act of the legislature directing an unregistered survey, inoperative by the lapse of

time, to be registered and a patent to be issued upon it. When this act was passed in favor of the complainants, the land covered by the survey under the entry of the 5 August, 1783, became excepted from the mass of ungranted vacant land, and the complainants acquired rights in it which could not be defeated by a patent upon Ringo's entry and survey.

This view of the case makes it unnecessary for us to consider the objections to the decree growing out of Ringo's transfer of his entries and surveys to the complainants -- namely that there was no consideration paid, as agreed to be paid, for his claim; if there was, that it was inadequate, and that it was obtained by fraud. In truth, at the time that paper was executed, he had no legal or equitable interest in the land to convey and be transferred, no more than he was conscientiously bound to do, as he confessed and had so declared to others when he was making his surveys, that they were not made with an intention to appropriate them to himself, but to enable him to make a division of the land between the complainants.

But how forcibly does the equity of the complainants prevail over any claim of Ringo, when the latter is viewed as their agent at the time he made his entry and surveys upon the land, which he had undertaken to assist in dividing between them. It is said that an unregistered survey gave to them no equitable right in the land, and that Ringo being only an agent for the special purpose of dividing the land, he could rightfully enter and survey it for himself when he ascertained the defect in the title of the complainants. The proposition of a want of equitable right in the complainants is true as against the state, for the time within which the survey should have been returned and registered before a grant could issue had expired, and the land had fallen into the general mass of ungranted land liable to entry, survey and grant upon Treasury land office warrants. But the mistake in the argument is in applying the rights of the state in the land to a right in Ringo obtained when he was admitting to the complainants his agency for them and making acknowledgements of their title to others to enable him more successfully to secure by his artifices a title in the land to himself. On the same day, Ringo wrote two letters, one to Littlejohn and the other to Charles Binns. In both he acknowledges himself to be the agent of the complainants, but by the tenor of his letters to Binns he conceals from and misrepresents to Littlejohn, and under the pretense of a friendly wish to save Binns from unnecessary

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expense, he tells him that as no survey had been made and no grant had existed, that he need not go to any expense about it, as it appears no grant can now issue; that he will be wrong to think there was no better right to the land.

These letters were written two days after he had commenced measures to secure the land for himself. The equity of the complainants, therefore, over any right of Ringo does not arise from the former having had at this time any legal title to the land, but from Ringo's having practiced an artifice upon the complainants whilst he was their agent to prevent them from curing the defect in their title, that he might deprive them of property which at the same time he acknowledged to be theirs. He was guilty of deceitful practices and artful devices contrary to the plain rules of common honesty and fair dealing between men, and could not acquire a title to the

land valid against the equity which he had acknowledged to be in the complainants. It is unnecessary to pursue this point further. The decree of the court directing Ringo to convey, must be affirmed, and the proposition laid down by this Court is that if an agent discovers a defect in the title of his principal to land, he cannot misuse it to acquire a title for himself, and if he does, that he will be held as a trustee holding for his principal.

In regard to the tenants, the decree of the court must be reversed. They were made parties by an amended bill. In the original bill the complainants charge that the land had been occupied for ten or twelve years by tenants of Binns, and in the amended bill they are said to be tenants in possession of the land claimed by the defendant. Nor are they charged with fraud in either. It is not necessary, therefore, to consider the grounds urged in the argument of counsel for a reversal of the decree against the tenants if a point arises upon the pleadings decisive of their case. Not having been charged with fraud on the bill or placed by it in any such relation to the land or to the complainants, no case exists for the interference of a court of equity. Whether they occupied the lands as the tenants of Binns or as declared in the original bill or as tenants in possession under another, the complainants are to be supposed to have their remedy at law for the recovery of the land until they shall charge and show that the tenants obtained, and retain possession, in contravention of some equity subsisting between them and the complainants. The tenants are not so charged, nor is there anything in the record from which such a conclusion can be drawn. They are merely shown to be in possession of parts of the original survey of two thousand acres,

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which was resurveyed by Ringo, and it is probable they hold under him; but there is no proof that they were parties to the fraud which he practiced upon the complainants. This point does not appear to have been made in the hearing in the court below, nor was it urged in argument in this Court; but it is obvious in the pleadings, and must be noticed by us. It is sufficient for the reversal of so much of the decree as relates to the tenants, and it will be directed with permission to the complainants to amend their bill if they shall please to do so.

It was also urged that the decree should be reversed on the grounds that there was no proof showing the complainants, the Hixons, to be the heirs of Timothy Hixon, and that the will of Timothy Hixon showed that the complainants should have claimed as devisees, and not as heirs.

The decree being reversed as to the tenants, neither point is material to them, and these objections cannot prevail against the affirmation of the decree as to Ringo, because the allegation in the bill of the complainants that the Hixons were the heirs of Timothy Hixon is not denied in the defendant's answers, and was therefore not a point put in issue by the pleadings. Besides, the fact not having been denied by the answer, there are ample and frequent proofs in the record of Ringo's admission that they were the heirs of Timothy Hixon and of his acknowledgements of their equitable right in the land in that character.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Kentucky, and was argued by counsel, on consideration whereof it is ordered, adjudged and decreed by this Court that so much of the decree of the said circuit court in this cause as directs the defendant Ringo to convey to the complainants be, and the same is hereby affirmed with costs, and that so much of the said decree as directs the tenants to convey to the complainants be, and the same is hereby reversed, and it is further ordered and decreed by this Court that this cause be, and the same is hereby remanded to the said circuit court with directions for further proceedings to be had therein in conformity to the opinion and decree of this Court and as to law and justice may appertain.

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